

Office of Enforcement and Removal Operations

U.S. Department of Homeland Security
 Buffalo Federal Detention Facility
 4250 Federal Drive
 Batavia, NY 14020



U.S. Immigration
 and Customs
 Enforcement

Date: 2/11/2019

MEMORANDUM FOR: Magistrate Judge D. Freeman
 U.S. District Court for the Southern District of New York

FROM:

Sherry L. Hunter
 Sherry L. Hunter
 Deportation Officer

SUBJECT: Lyxon CHERY, 1:17-cv-00157-PKC-DCF

Lyxon CHERY, A200 474 160, DOB: 12/28/1959, received a final order of removal from the United States to Haiti from an Immigration Judge on August 28, 2018. Mr. CHERY appealed this decision to the Board of Immigration Appeals (BIA). On January 25, 2019, the BIA dismissed the appeal. ICE is currently in the process of setting up Mr. CHERY for removal from the United States to Haiti. He is expected to be removed the first week of March, 2019. If you have any further questions, please feel free to contact me directly at 716.364.3995.

*Currently pending before this Court is a petition by Mr. Chery for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. See Chery v. Cunningham, 17cv00157(PKC)(DCF). This Court, however, does not have jurisdiction to stay Mr. Chery's final order of removal pending the resolution of his habeas petition. See 8 U.S.C. § 1252(a)(5); see also Eisa v. ICE, No. 08cv6204(FM), 2008 WL 4223618, at *4 (S.D.N.Y. Sept. 11, 2008). Accordingly, if Mr. Chery wishes to make an application for an emergency stay of the removal order, he should direct that application to the United States Court of Appeals for the Second Circuit.*

SO ORDERED: DATE: 2/11/19

Debra Freeman

 DEBRA FREEMAN
 UNITED STATES MAGISTRATE JUDGE